

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8962 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PREMIGIRI D GOSWAMI

Versus

DIRECTOR OF HEALTH AND MEDICAL SERVICES

Appearance:

MR DHARMESH V SHAH for Petitioner

MR ANAND S. DAVE, Solicitor with MR SA PANDYA, AGP
for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 23/11/98

ORAL JUDGEMENT

Rule. Mr.S.A.Pandya, learned AGP waives the service of Rule on behalf of the respondent State. On the request of both the sides, the matter is taken up for final hearing.

2. There is no dispute that the petitioner was

initially appointed on 31.5.1986 and that he had also been selected by the Gujarat Public Service Commission. The petitioner resigned on 15th June 1992 and he claims that later on, he had withdrawn the resignation before it could be accepted. However, on 11th November 1997, he had submitted an agreement in terms of the Family Welfare Department's Resolution dated 27th September 1996 and on that basis, a fresh appointment letter dated 21st November 1997 was issued in his favour giving appointment to him for a period of one year. The petitioner has submitted that this appointment is going to expire now with the expiry of one year from the date of his joining, i.e. on 23rd November 1998. There is no dispute that no selection has been held during this last one year for the post of Ins.Medical Officer in question. In view of the fact that no candidate selected by the Gujarat Public Service Commission is available, it is ordered that the petitioner shall be allowed to continue in service till a candidate selected by the Gujarat Public Service Commission is available. This order, however, will not come in the way of the respondents for taking any action on account of misconduct, if any. In case the petitioner makes any representation to treat his service to be continuing on the basis of the appointment which is given to him in 1986 by ignoring intervening story of resignation and withdrawal thereof, it will be open for the respondents to consider such representation and pass appropriate orders thereon as they deem fit. This Special Civil Application is allowed in terms as aforesaid and the Rule is made absolute to the above extent. Direct service today is permitted.

sreeram.